

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:)
)
CLAUDIA Y.F.)
FITZPATRICK,)
)
Debtor.)

ROBERT LEE SMITH,)
)
Appellant,)
)
v.) CIVIL ACTION NO.
) 2:06cv281-MHT
CLAUDIA Y.F.)
FITZPATRICK,)
)
Appellee.)

ORDER

Appellant Robert Lee Smith appeals a judgment entered against him by the bankruptcy court in an adversary proceeding. This court's appellate jurisdiction is proper under 28 U.S.C. § 158(a). This matter is currently before the court on appellant Smith's motion to correct the record on appeal.

Because appeals under § 158(a) are taken "in the same manner as appeals in civil proceedings are generally taken to the courts of appeals from the district courts," 28 U.S.C. § 158(c)(2), this court must look to the various federal rules of procedure for guidance on how to resolve this motion. Federal Rule of Appellate Procedure 10(e)(1) provides that, if any dispute arises "about whether the record [on appeal] truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly." The bankruptcy court, which is the trial court in bankruptcy proceedings, must therefore resolve any disputes over the accuracy of the record.

Accordingly, it is ORDERED that appellant Robert Lee Smith's motion to correct the record (Doc. No. 4) is referred to the bankruptcy court so that the bankruptcy court may resolve motion.

The clerk of the court is DIRECTED to take appropriate steps to effect the referral.

DONE, this the 12th day of April, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE